

LEGISLATURE OF NEBRASKA  
NINETY-SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 772**

Introduced by Hartnett, 45

Read first time January 20, 1999

Committee: Revenue

A BILL

1 FOR AN ACT relating to sales and use tax; to amend sections  
2 77-2702.17 and 77-2704.30, Reissue Revised Statutes of  
3 Nebraska, and section 77-2701, Revised Statutes  
4 Supplement, 1998; to exempt certain transfers of cellular  
5 telephones; to redefine a term; to harmonize provisions;  
6 and to repeal the original sections.  
7 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 77-2701, Revised Statutes Supplement,  
2 1998, is amended to read:

3           77-2701. Sections 77-2701 to 77-27,135.01 and sections 2  
4 and 5 of this act shall be known and may be cited as the Nebraska  
5 Revenue Act of 1967.

6           Sec. 2. For purposes of the sales or use tax provisions  
7 of the Nebraska Revenue Act of 1967, the transfer of a cellular  
8 telephone as an inducement to enter into or continue a contract for  
9 telecommunications services shall not be construed to constitute  
10 the storage, use, or consumption of such equipment by the  
11 transferor.

12           Sec. 3. Section 77-2702.17, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           77-2702.17. (1) Sales price shall mean the total amount  
15 for which property is sold valued in money whether paid in money or  
16 otherwise, without any deduction on account of:

17           (a) The cost of the property sold;

18           (b) The cost of material used, labor or service cost,  
19 interest paid, losses, or any other expenses;

20           (c) The cost of transportation of the property. The  
21 total amount for which property is sold shall include any services  
22 which are a part of the sale and any amount for which credit is  
23 given to the purchaser by the seller;

24           (d) The cost of computer software contained on the  
25 property; or

26           (e) The cost of any license, franchise, or lease for the  
27 use of computer software or entertainment properties such as  
28 videotapes or movie films.

- 1           (2) Sales price shall not mean any of the following:
- 2           (a) Cash discounts allowed and taken on sales;
- 3           (b) The amount of any rebate granted by a motor vehicle
- 4 or motorboat manufacturer or dealer at the time of sale of the
- 5 motor vehicle or motorboat, which rebate functions as a discount
- 6 from the sales price of the motor vehicle or motorboat;
- 7           (c) The amount refunded for property returned by
- 8 customers when all or part of the amount charged therefor is
- 9 refunded either in cash or credit;
- 10          (d) The amount charged for finance charges, carrying
- 11 charges, service charges, or interest from credit extended on sales
- 12 of property under contracts providing for deferred payments of the
- 13 purchase price if such charges are not used as a means of avoiding
- 14 imposition of the tax upon the actual sales price of the property;
- 15          (e) The value of property taken by a seller in trade as
- 16 all or a part of the consideration for a sale of property of any
- 17 kind or nature;
- 18          (f) The value of a motor vehicle or motorboat taken by
- 19 any person in trade as all or part of the consideration for a sale
- 20 of another motor vehicle or motorboat;
- 21          (g) The amount charged for labor or services rendered in
- 22 annexing property to real estate; or
- 23          (h) The amount charged for labor or services rendered in
- 24 installing or applying the property sold if such amount is
- 25 separately stated and such separate statement is not used as a
- 26 means of avoiding imposition of the tax upon the actual sales price
- 27 of the property.
- 28          (3) In a transaction involving the sale or transfer of a

1 cellular telephone as an inducement for a consumer to enter into or  
2 continue a contract for telecommunications services, sales price  
3 shall mean and be limited to the monetary amount paid by the  
4 consumer and shall not include any sales commission or other  
5 compensation received by the retailer as a result of the consumer  
6 entering into or continuing a contract for such telecommunications  
7 services.

8           Sec. 4. Section 77-2704.30, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           77-2704.30. The use tax imposed in the Nebraska Revenue  
11 Act of 1967 shall not apply to:

12           (1) The use in this state of materials and replacement  
13 parts which are acquired outside this state and which are moved  
14 into this state for use directly in the repair and maintenance or  
15 manufacture of motor vehicles, watercraft, railroad rolling stock,  
16 whether owned by a railroad or by any person, whether a common or  
17 contract carrier or otherwise, or aircraft engaged as common or  
18 contract carriers; ~~and~~

19           (2) The storage, use, or consumption of property which is  
20 acquired outside this state, the sale, lease, or rental or the  
21 storage, use, or consumption of which property would be exempt from  
22 the sales or use tax were it purchased within this state; and

23           (3) The transfer of a cellular telephone as an inducement  
24 to enter into or continue a contract for telecommunications  
25 services.

26           Sec. 5. The provisions of this legislative bill shall  
27 govern the treatment under the sales and use tax provisions of the  
28 Nebraska Revenue Act of 1967 of any applicable transaction

1 occurring in any tax period that has not been closed by the  
2 applicable statute of limitations and any future transaction  
3 occurring on or after the effective date of this act.

4           Sec. 6.   Original sections 77-2702.17 and 77-2704.30,  
5 Reissue Revised Statutes of Nebraska, and section 77-2701, Revised  
6 Statutes Supplement, 1998, are repealed.